

APR 12 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BEANT SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71827

Agency No. A75-301-820

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Beant Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") opinion which summarily affirmed the Immigration Judge's ("IJ") denial of his application for asylum and withholding of

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal. We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review and remand for further proceedings.

Where, as here, the BIA affirms without an opinion, we review the IJ's decision directly. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 849 (9th Cir. 2003). We review for substantial evidence an adverse credibility determination. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001).

The IJ's adverse credibility determination relied upon minor inconsistencies that do not go to the heart of Singh's claim. *See id.* at 1043; *see also Bandari v. INS*, 227 F.3d 1160, 1165-68 (9th Cir. 2000). Accordingly, the IJ's adverse credibility determination is not supported by substantial evidence. *See Bandari*, 227 F.3d at 1165-66.

We grant the petition and remand for further proceedings to determine whether, accepting Singh's testimony as credible, he is eligible for asylum and withholding of removal. *See INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam).

PETITION FOR REVIEW GRANTED and REMANDED.